

**Name of Court:**

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U.S. DISTRICT COURT

2007 APR -2 P 12: 26

**UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY**

**Title of Action:**

Petition for Hearing on Naturalization Application Under 8 U.S.C. § 1447(b)

Valery R. Polyakov

-vs-

Michael Chertoff, Secretary of the Department of Homeland Security;  
Eduardo Aguirre, Director U.S. Citizenship and Immigration Services  
Andrea Quarantillo, Newark District Director, U.S. Citizenship and Immigration  
Services

**Plaintiff, Civil Action No.**

07-1594 (GEB)  
(To be supplied by the Court)

**COMPLAINT**

This action is brought for a hearing to decide Plaintiff's naturalization application due to Defendants' failure to adjudicate within 120 days after the first examination in violation of the Immigration and Nationality Act ("INA") § 336(b) and 8 U.S.C. § 1447(b).

**PARTIES**

1. Plaintiff **Valery Rostislavovich Polyakov** is a lawful permanent resident of the United States. His address: 4 Lexington Ave., Bound Brook, NJ 08805. Plaintiff applied for naturalization to the United States. Plaintiff's first examination date and interview was on June 12 2004.
2. Defendant **Michael Chertoff** is the Secretary of the Department of Homeland Security (DHS), and this action is brought against him in his official capacity. He is generally charged with enforcement of the Immigration and Nationality Act, and is further authorized such powers and authority to subordinate employees of the DHS. 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. According to 6 C.F.R. § 5.42(a) "[o]nly the Office of the General Counsel is authorized to receive and accept on behalf of the

Department summonses or complaints sought to be served upon the Department, the Secretary, or Department employees.”. Therefore, the Defendant’s address is: Office of the General Counsel, U.S. Department of Homeland Security, Washington, DC 20528.

3. Defendant **Eduardo Aguirre** is the Director of U.S. Citizenship and Immigration Service (USCIS), an agency within the DHS to whom the Secretary’s in part has been delegated and is subject to Secretary’s supervision. Defendant Director is charged with overall administration of benefits and immigration services. 8 C.F.R. § 100.2(a). According to 6 C.F.R. § 5.42(a), the Defendant’s address is: Office of the General Counsel, U.S. Department of Homeland Security, Washington, DC 20528.
4. Defendant **Andrea Quarantillo**, Newark District Director, is an official of the USCIS generally charged with supervisory authority over all operations of the USCIS within her District with certain specific exceptions not relevant here. 8 C.F.R. § 100.2(d)(2)(ii). The Defendant Director is the official with whom Plaintiff’s naturalization application remains pending. According to 6 C.F.R. § 5.42(a), the Defendant’s address is: Office of the General Counsel, U.S. Department of Homeland Security, Washington, DC 20528.

### **JURISDICTION**

Jurisdiction in this case is proper under INA § 336(b) and 8 U.S.C. § 1447(b). Relief is requested pursuant to said statutes.

### **VENUE**

Venue is proper in this court, pursuant to 8 U.S.C. § 1447(b), in that Plaintiff may request a hearing on the matter in the District where Plaintiff resides.

### **CAUSE OF ACTION**

Plaintiff is a lawful permanent resident (A#073 350 518) of the United States. Plaintiff filed an N-400, Application for Naturalization with the USCIS in July 2003 and was interviewed on June 12 2004 by the USCIS’ Newark office.

Upon conclusion of the examination, Plaintiff was informed that the final decision would be made upon completion of the National Security checks.

Plaintiff's application for naturalization has now remained unadjudicated for more than two years since the date of the examination.

Defendants have sufficient information to determine Plaintiff's eligibility pursuant to applicable requirements.

Defendants, in violation of 8 U.S.C. § 1446, have failed to make a determination on Plaintiff's naturalization application within the 120-day period after the date of examination.

#### **DEMAND**

WHEREFORE, in view of the arguments and authority noted herein, Plaintiff respectfully prays that the Defendants be cited to appear herein and that, upon due considerations, the Court enter and order adjudicating the naturalization application. In the alternative, the Court may remand requiring Defendants to immediately adjudicate Plaintiff's naturalization application. In addition, Plaintiff requests an award of expenses under Equal Access to Justice Act (5 U.S.C. 504) and such other relief at law and in equity as justice may require.



(Signature of Plaintiff)

Valery R. Polyakov

3/27/07

Valemy Poleyakov  
4 Lexington Ave  
Bound Brook NJ 08805

**CERTIFIED MAIL™**



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